

IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE NOOTY RAMAMOHANA
RAO

WRIT PETITION NO :21711 of 2002

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Dated: 22nd August 2007.

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Between:

K.Srinivas Rao, S/o Papaiah, aged 35 years, Occ: Fair
Price Shop Dealer, R/o Gollapudi, Wyra Mandal,
Khammam.

..... PETITIONER

AND

The District Collector, Khammam, Khammam District and
others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE NOOTY
RAMAMOHANA RAO

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W.P.NO.21711 OF 2002

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ORAL ORDER:

The writ petitioner, a Fair Price Shop dealer at Wyra, Khammam District, challenges the orders passed by the District Collector, dismissing the Revision preferred by him against the orders passed by the Joint Collector, who dismissed his appeal.

The R.D.O., Khamman, passed orders on 03-05-2002 canceling the authorization of the Fair Price Shop granted earlier in favour of the writ petitioner. Two reasons have been set out for the said cancellation viz.,(1) there is a variation of 22.96 quintals of rice between the ground balance and book balance with regard to the Food For Work (FFW) rice; (2) that the dealer had failed to maintain true and correct account of the Fair Price Shop.

Against the orders passed by the R.D.O., an appeal has been provided under Clause XVII of the A.P. Scheduled Commodities (Regulation and Distribution Through Cards) Order, 1973. The specific case set up by the writ petitioner before the appellate authority is that there is no variation in the stocks of rice and hence, there was never any diversion of the FFW rice into black-market and that he had maintained a faithful account of the

commodities distributed by him. It is only because of heavy rush of business that was transacted on the day of inspection, the coupons collected by the petitioner as a token proof of distribution of the commodities, have not yet been counted for. The writ petitioner has also specifically pleaded that along with his explanation, he had enclosed the coupons for a total quantity of 22.95 quintals of FFW rice vouching for the distribution of the said rice for the beneficiaries. While entertaining the appeal, the Joint Collector, had called for the records of the R.D.O., Khammam, wherein the report submitted by the M.R.O., on 23-03-2002 was available. The M.R.O., had clearly taken into account the 384 coupons, the data of which has not been entered in the issue register, but which are available with the dealer while calculating the stock that is distributed by the dealer. The grievance of the writ petitioner is that this inspection report dated 23-03-2002 of the M.R.O., Wyra, which formed the basis of the orders passed by the R.D.O., Khammam on 03-05-2002 for cancellation of his authorization, has not been furnished to him, consequently, he could not effectively neutralize the adverse contents of the said report. While dealing with the coupons, which have been enclosed by the writ petitioner vouching distribution of 22.95 quintals of FFW rice by the petitioner, the Joint Collector, declined to take the same on record since the same

have been submitted subsequent to the inspection of the M.R.O., Wyrá.

It is not in dispute that the stock lifted by the dealer has got to be distributed to the correct source for which they are intended to be supplied and at the same time, the writ petitioner is also required to account for properly and correctly the stock lifted and the details of the stock distribution. Any variation beyond the tolerable limits can invite penal action against the dealer. But, if the dealer had produced the material, which vouches for his physical and actual distribution of the commodities, it should not be ignored or brushed aside lightly. The R.D.O., as well as the Joint Collector-appellate authority have preferred to ignore the material produced by the writ petitioner only on the plea that the same was made available subsequent to 22-03-2002, i.e., the date on which the shop in question has been inspected by the M.R.O. The fact that the coupons have been made available by the writ petitioner discloses that the commodities have been distributed under the FFW scheme. All that was got to be done was to verify as to whether the coupons produced by the writ petitioner are genuine coupons vouching for the distribution of the commodities under the FFW scheme or not. Instead of ignoring them, the R.D.O., and the appellate authority ought to have got them verified.

As a result, if the writ petitioner had genuinely distributed the essential commodities under the FFW scheme and subsequently collected the coupons vouching for such a distribution and produced the same, which neutralizes completely the allegation against him that there is a variation between the stock lifted and the stock distributed, the enquiry should have been more comprehensive. For the sheer failure to take this material into account and consideration, the decision rendered by the respondents that the writ petitioner is guilty of the charges leveled against him, must be held to be vitiated.

For these reasons, the impugned orders are set aside. However, it is open to the respondents to take such steps and measures, which are considered or deemed, necessary and appropriate in the matter, if they still prefer to pursue the matter against the writ petitioner.

In the result, the writ petition is allowed, but however, without costs.

Nooty Ramamohana Rao, J

mrk

22nd August 2007.